

REMARKS

In response to the Office Action dated March 24, 2009, Applicant respectfully requests reconsideration. Claims 1-8 and 28-29 were previously pending in this application. By this amendment, Applicant is canceling claim 5 without prejudice or disclaimer. Claims 1, 28, and 29 have been amended. Claims 9-15, 17, 18, and 20-25 were previously withdrawn. No new claims have been added. As a result, claims 1-4, 6-8, 28, and 29 are pending for examination with claims 1, 28 and 29 being independent claims. No new matter has been added.

Interview Summary

Applicants' representative appreciates the courtesies extended by Examiner Osman in granting and conducting a telephone interview on June 4, 2009. Applicants were represented at the interview by Ed Walsh. During the telephone interview, Applicants' representative presented to the Examiner a general overview of Applicants' invention as recited in the claims. The proposed amendments to the claims were discussed. The Examiner indicated that claim 29 as amended appears to distinguish over the Bahl reference, but indicated a further search may be required. Further amendments to claim 28 were discussed and are reflected in this amendment.

The Examiner indicated that the amendments appeared to overcome the rejections under 35 U.S.C. §§ 101 and 112.

Rejections Under 35 U.S.C. §101

Claim 29 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention.

Claim 29, as amended, is directed to "a method of operating a computing machine comprising a processor." Claim 29 recites "executing instructions on the processor for sending from a user-mode entity a first object identifier (OID) from a first set of OIDs to a kernel-mode wireless wide area network (WWAN) device driver through a user-mode / kernel-mode interface." Claim 29 recites a process tied to a particular machine and is therefore statutory under 35 U.S.C. §101.

Accordingly, withdrawal of this rejection is respectfully requested.

Rejections under 35 U.S.C. §112

Claims 1 and 28 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Office Action alleged that the phrase “configured to” is not a positively recited limitation. Claim 1 has been amended to replace “configured to send” with “for sending” and similarly, “configured to receive” with “for receiving.” Claim 1, as amended, positively recites:

a user-mode entity for sending an object identifier (OID)
from a first set of object identifiers (OIDs), through a user-mode
module to kernel-mode driver interface, to the WWAN device
driver and for receiving an OID from a second set of OIDs,
through the user-mode module to kernel-mode driver interface,
from the WWAN device driver.

Claim 28 has been amended to replace “configured to send” with “for sending.” The phrase “is configured [to] perform” is replaced with “performs.” Claim 28, as amended, positively recites:

a user-mode entity for sending a plurality of object
identifiers (OIDs) from a first set of OIDs by way of the user-mode
module to the kernel-mode WWAN device driver through the user-
mode / kernel-mode interface,
wherein, the kernel-mode WWAN device driver performs
an operation requested by a first received OID from the plurality of
OIDs, and, when a second received OID from the plurality of OIDs
is received before completion of the operation, the kernel-mode
WWAN device driver stores an identifier of the second received
OID in an information base.

Accordingly, withdrawal of the rejection of claims 1 and 28 under 35 U.S.C. §112 is respectfully requested.

Rejections Under 35 U.S.C. §102

Claims 1, 28 and 29 stand rejected under 35 U.S.C. 102(e) as being anticipated by Bahl, U.S. Patent No. 6,629,151.

Independent Claim 1

Claim 1 has been amended to include limitations of claim 5, which the Examiner indicated contain allowable subject matter.

Accordingly, claim 1 patentably distinguishes from the references and allowance is respectfully requested.

Claims 2-4 and 6-8 depend from claim 1, incorporate all of its limits, and should be allowed for at least the same reasons.

Independent Claim 28

Claim 28, as amended, is directed to a computer-storage medium comprising computer-executable modules. Claim 28 recites, *inter alia*, “a user-mode entity for identifying first and second object identifiers (OIDs) from a first set of OIDs to be sent by way of the user-mode module to the kernel-mode WWAN device driver through the user-mode / kernel-mode interface, and when the second OID is identified before receiving a return operation from the kernel-mode WWAN device driver, waiting to send the second OID at least until the return operation is received, the return operation indicating the kernel-mode WWAN device driver has received the first OID.” This amendment is supported in the specification, for example, on pages 16-17.

Claim 28 clearly distinguishes over the cited references. The Office Action asserts that all limitations of claim 28 are met by Bahl at column 7 and column 10, lines 34-49. However, Applicants respectfully submit that the claim recites limitations not met by the reference.

Bahl generally describes querying a wireless network interface card (WNIC) for information about the wireless interface (Abstract). Column 7 describes the concept of an OID (lines 1-18), passing an OID to the WNIC to request the raw bit rate supported (lines 18-47), and returning the raw bit rate from the WNIC to a data structure (47-51). Lines 52-67 describe an OID for determining whether the WNIC supports link-layer acknowledgements. Column 10, lines 34-49 describes passing an OID requesting a received signal strength indicator (RSSI) to the WNIC and the WNIC driver placing the RSSI value in a location specified by the request. In summary, these passages simply describe requesting static or dynamic information from a WNIC and receiving a response.

Claim 28 requires more and specifically recites “when the second OID is identified before receiving a return operation from the kernel-mode WWAN device driver, ***waiting to send the second OID at least until the return operation is received***, the return operation indicating

the kernel-mode WWAN device driver has received the first OID.” Bahl does not teach or suggest “waiting to send the second OID at least until the return operation is received.”

As a further reason that the references do not meet the limitations of the claim, claim 28 also recites “the kernel-mode WWAN device driver performs an operation requested by the first OID, and, *when the second OID is received before completion of the operation, the kernel-mode WWAN device driver stores an identifier of the second OID in an information base.*”

The Office Action also cites column 7 and column 10, lines 34-49 as teaching this limitation. It should be clear from the discussion above that Bahl does not teach or suggest “when the second OID is received before completion of the operation, the kernel-mode WWAN device driver stores an identifier of the second OID in an information base.”

Accordingly, claim 28 patentably distinguishes over the prior art of record, so that the rejection of claim 28 under 35 U.S.C. §102 should be withdrawn.

Independent Claim 29

Claim 29, as amended, is directed to a method of operating a computing machine comprising a processor. Claim 29 recites “sending the second OID by way of the user-mode entity to the WWAN device driver through the user-mode / kernel-mode interface before receiving a third OID from a second set of OIDs from the WWAN device driver.”

Claim 29 clearly distinguishes over the cited references. The Office Action asserts this limitation is met by Bahl at column 7 and column 10, lines 34-49. These passages, explained in detail with reference to claim 28 above, describe requesting static or dynamic information from a WNIC and receiving a response. Claim 29 requires more and specifically recites “*sending the second OID* by way of the user-mode entity to the WWAN device driver through the user-mode / kernel-mode interface *before receiving a third OID from a second set of OIDs from the WWAN device driver.*” These passages of Bahl do not describe sending a second OID, and certainly do not describe sending a second OID “before receiving a third OID from a second set of OIDs from the WWAN device driver” as recited in claim 29.

As a further reason that the references do not meet the limitations of the claim, claim 29 also recites:

after sending the second OID, sending a fourth OID by way
of the user-mode entity to the WWAN device driver through the

user-mode / kernel-mode interface before receiving the third OID
from the second set of OIDs from the WWAN device driver;
 queuing the second and fourth OIDs at the WWAN device
driver;

As discussed above, Bahl does not describe sending a second OID. Bahl certainly does not describe “after sending the second OID, sending a fourth OID... before receiving the third OID from the second set of OIDs from the WWAN device driver,” let alone “queuing the second and fourth OIDs.”

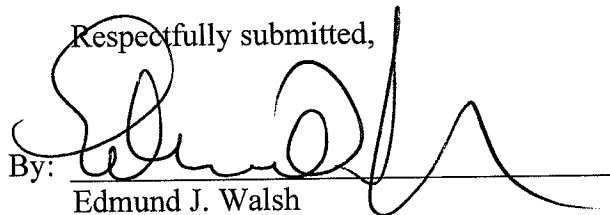
Accordingly, claim 29 patentably distinguishes over the prior art of record, so that the rejection of claim 29 under 35 U.S.C. §102 should be withdrawn.

CONCLUSION

A Notice of Allowance is respectfully requested. The Examiner is requested to call the undersigned at the telephone number listed below if this communication does not place the case in condition for allowance.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. Applicant believes no fee is due with this response. However, if a fee is due, please charge our Deposit Account No. 23/2825 under Docket No. M1103.70138US01 from which the undersigned is authorized to draw.

Dated: June 18, 2009

Respectfully submitted,

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